

*United States Court of Appeals  
for the Second Circuit*



**APPELLANT'S  
BRIEF**



UNITED STATES COURT OF APPEALS - SECOND CIRCUIT

ROBERT C. MERCKENS  
PLAINTIFF APPELLANT

V

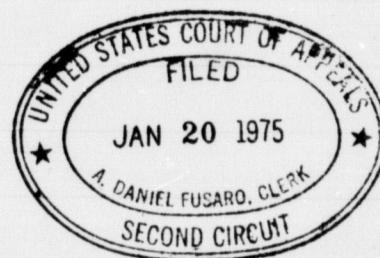
F.I. DUPONT GLORE FORGAN & CO  
A/K/A DUPONT WALSTON INC  
DEFENDANT APPELLEE

B/  
P/S  
INDEX# 74-2663

APPELLANT'S BRIEF

IN APPEAL FROM  
JUDGE L. F. MAC MAHON'S  
MEMORANDUM JUDGEMENT IN CASE # 74 CIV 1585  
WHICH GRANTED SUMMARY JUDGEMENT TO DEFENDANT.  
COPY OF MEMORANDUM ATTACHED.

TO: DEFENDANT - APPELLEE  
WEIL, GOTSHAL & MANGES  
767 FIFTH AVE.  
NEW YORK, N.Y. 10022



Pl. APPELLANT - PLAINTIFF

ROBERT C. MERCKENS  
P.O. Box 1173  
NEW YORK 10023, N.Y. PAGE #1

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## TABLE OF CASES AND STATUTES

### STATUTES:

1) CIVIL PRACTICE LAW & RULES OF NEW YORK STATE  
SECTION 213 (9)

2) THE SECURITIES AND EXCHANGE ACT OF 1934 [THE ACT]  
SECTION 10B [USCA 15d78j]  
SECTION 7 [USCA 15d78g]

3) RULES & REGULATIONS PURSUANT TO THE SECURITIES  
AND EXCHANGE ACT OF 1934  
ARTICLE 10B-5  
REGULATION T (12 CFR 220) SECTION 220.3

## STATEMENT OF ISSUES PRESENTED FOR REVIEW

I MAIN ISSUE - MOTION OF SUMMARY JUDGEMENT  
SHOULD NOT HAVE BEEN GRANTED BECAUSE  
THERE IS A TRIABLE ISSUE OF FACT -  
THAT PLAINTIFF ALLEGED FRAUD WAS  
COMMITTED BY DEFENDANT  
AND THAT DEFENDANT DENIED THIS.

II WHAT IS THE APPLICABLE STATUTE OF LIMITATIONS  
WHERE FRAUD IS ALLEGED,

AND THAT THE APPLICABLE STATUE OF LIMITATION  
IS THE NEW YORK STATUTE FOR FRAUD, WHICH  
ALLOWS SIX YEARS TO START A ACTION.

## A STATEMENT OF THE CASE

- 1) THIS IS A CASE OF MULTIPLE ACTS OF FRAUD IN VIOLATION OF THE SECURITIES & EXCHANGE ACT OF 1934 [THE ACT]
- 2) ON NOV. 6, 1970, THE DEFENDANT, PLAINTIFF'S BROKER, INFORMED PLAINTIFF THAT HIS ACCOUNT HAD ENOUGH BUYING POWER TO SELL SHORT 100 SHARES OF DISNEY STOCK, THIS WAS AN UNTRUE STATEMENT IN VIOLATION OF "THE ACT" SECTION 10B AND RULE 10B-5 OF THE RULES & REGULATIONS PURSUANT TO "THE ACT". IT IS SPECIFIED IN ARTICLE I-2 OF THE COMPLAINT & PARTICULARS ARE GIVEN IN ARTICLE I-5 OF THE COMPLAINT.
- 3) PLAINTIFF, BASED ON DEFENDANT'S REPRESENTATIONS, SOLD SHORT 100 SHARES OF DISNEY STOCK ON THIS MISINFORMATION; THIS CAUSED APPROXIMATELY A \$600. VIOLATION OF THE 65% INITIAL MARGIN REQUIREMENT OF REG.T" SECTION 220.3 OF REGULATIONS PURSUANT TO "THE ACT", [786 ARTICLE OF OSCA] THE DEFENDANT FAILED TO NOTIFY PLAINTIFF OF THIS MARGIN VIOLATION. THIS IS AGAIN A VIOLATION OF ARTICLE 10B OF "THE ACT". THIS VIOLATION IS SPECIFIED IN ARTICLE I-3 OF COMPLAINT & PARTICULARS ARE GIVEN IN SECTION I-5 OF THE COMPLAINT. MONTHLY STATEMENT OF ACCOUNT, DATED NOV 27, 1970, WHICH SHOWS A \$600 INITIAL MARGIN VIOLATION IS ATTACHED TO THE COMPLAINT.
- 4) PLAINTIFF DISCOVERED THESE ACTS OF FRAUD SIX MONTHS LATTER IN MAY OF 1971, WHEN GREAT FINANCIAL LOSS RESULTED BECAUSE OF THESE VIOLATIONS, DEFENDANT DENIED THESE VIOLATIONS TO PLAINTIFF ORALLY, & BY LETTER, OF JAN 4, 1972, SENT TO THE S.E.C. COPY OF LETTER WAS ATTACHED TO STATEMENT PURSUANT TO RULE 96,

## COURSE OF PROCEEDINGS BELOW

- 1) PLAINTIFF FILED A SUMMONS & COMPLAINT ON APRIL 8, 1974
- 2) DEFENDANT SERVED AN ANSWER ON MAY 20, 1974
- 3) PLAINTIFF FILED A NOTE OF ISSUE ON MAY 30, 1974
- 4) DEFENDANT FILED A MOTION TO STRIKE NOTE OF ISSUE RETURNABLE  
ON JUNE 21, 1974
- 5) MOTION TO STRIKE GRANTED TO PERMIT DISCOVERY, ON JULY 18, 1974  
NO ACTION WAS TAKEN BY DEFENDANT FOR DISCOVERY
- 6) PLAINTIFF FILED A SECOND NOTE OF ISSUE ON AUG 1, 1974
- 7) DEFENDANT FILED A MOTION FOR SUMMARY JUDGEMENT  
RETURNABLE ON SEPT 5, 1974
- 8) ON SEPT 19, 1974 AT A PRETRIAL HEARING - JUDGE L.F.  
MACMAHON REFUSED PLAINTIFF'S REQUEST FOR ORAL  
HEARING ON SUMMARY JUDGEMENT.
- 9) ON NOV. 8, 1974 - JUDGE MACMAHON GRANTED  
DEFENDANT'S MOTION FOR SUMMARY JUDGEMENT,
- 10) ON NOV 12, 1974 - CLERK ISSUED JUDGEMENT DISMISSING ACTION
- 11) ON DEC. 11, 1974 - PLAINTIFF FILED NOTICE OF APPEAL,

## STATEMENT OF RELEVANT FACTS

- 1) JUDGE MACMAHON, IN HIS MEMORANDUM OF NOV. 8, 1974, STATED THAT HE FOUND COMPLAINT VAGUE & CONFUSING, AND BASED HIS DECISION ON MAINTENANCE MARGIN REQUIREMENTS, WHICH HAVE NO RELEVANCE TO THE CHARGES IN THIS COMPLAINT; RATHER THAN THE ALLEGATIONS OF FRAUD MADE IN THE COMPLAINT.
- 2) PLAINTIFF SUBMITS THAT JUDGE MACMAHON HAD AMPLE OPPORTUNITY TO SATISFY HIS CONFUSION AND SHOULD HAVE HELD A CONFERENCE IN THE PRE-TRIAL PART, SINCE PLAINTIFF IS APPEARING PRO SE,
- 3) JUDGE MACMAHON IGNORED CHARGES OF FRAUD SET FORTH IN THE COMPLAINT [ARTICLE I-2,3,4]
- 4) JUDGE MACMAHON IGNORED CHARGES OF FRAUD SET FORTH IN PLAINTIFF'S STATEMENT PURSUANT TO SECTION 9G IN ANSWER TO MOTION FOR SUMMARY JUDGEMENT.
- 5) JUDGE MACMAHON IGNORED COPY OF PLAINTIFF'S MONTHLY STATEMENT, DATED NOV 27, 1970, WHICH WAS ATTACHED TO COMPLAINT & CLEARLY SHOWS AN APPROX. \$6000 INITIAL REG. "T" MARGIN VIOLATION,  
[AS CHARGED IN COMPLAINT ARTICLE I-3]

## ARGUMENT - SUMMARY

- 1) PLAINTIFF CHARGED IN HIS COMPLAINT AND AGAIN IN THE STATEMENT PURSUANT TO RULE 96 OF THE ANSWER TO MOTION FOR SUMMARY JUDGEMENT, THAT THE DEFENDANT COMMITTED ACTS IN VIOLATION OF THE SECURITIES & EXCHANGE ACT OF 1934; IN CONNECTION WITH THE SHORT SALE OF 100 SHARES OF DISNEY, WALT STOCK ON NOV. 6, 1970, BY THE PLAINTIFF,
- 2) THESE VIOLATIONS ARE ACTS OF FRAUD.
- 3) THESE ACTS OF FRAUD OCCURRED IN NEW YORK STATE.
- 4) THE DEFENDANT DENIED THESE CHARGES IN HIS ANSWER TO THE COMPLAINT, BUT HAS SIMPLY IGNORED THESE CHARGES IN HIS MOTION FOR SUMMARY JUDGEMENT.
- 5) THE APPLICABLE STATUTE OF LIMITATIONS IN THIS CASE IS SECTION 213(9) OF CPLR OF N.Y. STATE, WHICH ALLOWS SIX YEARS WITHIN WHICH TO START AN ACTION BASED IN FRAUD,
- 6) JUDGE L.F. MACMAHON MADE ERROR IN GRANTING SUMMARY JUDGEMENT TO DEFENDANT BECAUSE HE CONSIDERED ONLY MAINTAINANCE MARGIN VIOLATIONS WHEN HE RULED FOR A THREE YEAR STATUTE OF LIMITATIONS AS BEING THE APPLICABLE RULE, THE JUDGE FAILED TO ACCEPT PLAINTIFF'S CHARGES OF FRAUD WITH THEIR LENGTHIER STATUTE OF LIMITATIONS AS TRUE, & THEREFORE FAILED TO FOLLOW LEGAL PRECEDENT,

## ARGUMENT - PRIMARY

- 1) PLAINTIFF SUBMITS THAT THE COMPLAINT + STATEMENT PURSUANT TO RULE 96, BOTH ALLEG MULTIPLE ACTS OF FRAUD IN VIOLATION OF THE SECURITIES & EXCHANGE ACT OF 1934.
- 2) AS A PRO SE PETITIONER, PLAINTIFF ADMITS THAT THE COMPLAINT + STATEMENT PURSUANT TO RULE 96 ARE LESS THAN PROFESSIONAL, BUT CITES HAINES V KERNER, WHICH HOLDS THAT A PRO SE CASE MUST BE CONSIDERED LIBERALLY.
- 3) ALSO AS WAS STATED IN BOWMAN V HARTIG THE COMPLAINT SHOULD NOT BE DISMISSED FOR INSUFFICIENCY WHEN DEFENDANT, AS PLAINTIFF'S BROKER, HAS ALL THE FACTS, AS IS TRUE IN THIS CASE. IN FACT, DEFENDANT HAS DEFENDED THIS ACTION BEFORE THE SECURITIES & EXCHANGE COMMISSION. [SEE COPY OF DEFENDANT'S LETTER DATED JAN. 4, 1972 WHICH IS ATTACHED TO PLAINTIFF'S STATEMENT PURSUANT TO RULE 96, IN THE RECORD]
- 4) ATTACHED TO BRIEF, AS EXHIBIT A, IS PRO SE FORM FOR FILING CLAIMS IN THE DISTRICT COURT. THIS IS THE SUM TOTAL OF HELP THAT THE PLAINTIFF HAS RECEIVED IN FILING HIS CASE FROM THE PRO SE CLERK. PLAINTIFF CONTENDS THAT HE HAS MET THE REQUIREMENTS OF THIS FORM + THAT HE HAS STATED A CASE.

- 5) PLAINTIFF'S FIRST CHARGE IN THE COMPLAINT (SEE ARTICLE I-2)  
IS THAT THE DEFENDANT GAVE THE PLAINTIFF FALSE INFORMATION  
IN ORDER TO SELL STOCK TO THE PLAINTIFF. THIS OCCURRED, AS  
DEFINED IN ARTICLE I-5 OF THE COMPLAINT, WHEN DEFENDANT  
INFORMED THE PLAINTIFF THAT HE HAD SUFFICIENT FUND TO  
SELL 100 SHARES OF DISNEY STOCK SHORT.
- 6) THIS STATEMENT BY THE DEFENDANT WAS A FALSE AND  
UNTRUE STATEMENT; CLEARLY CONNECTED WITH THE SALE  
OF STOCK TO THE PLAINTIFF, AND UPON WHICH THE PLAINTIFF RELIED.
- 7) FURTHER, BY THIS SAME SALE OF STOCK, THERE RESULTED  
A APPROX. 6000. VIOLATION OF THE 65% INITIAL MARGIN  
REQUIREMENT OF REGULATION "T" OF THE RULES & REGULATIONS  
PURSUANT TO SECTION 7 OF "THE ACT," [AS CHARGED IN  
ARTICLE I-3 OF THE COMPLAINT]
- 8) THE DEFENDANT FAILED TO NOTIFY THE PLAINTIFF OF  
THIS 6000,- INITIAL REG "T" MARGIN VIOLATION.
- 9) THE PLAINTIFF CHARGES THAT THE DEFENDANT  
COMMITTED FRAUD BY THESE MISSTATEMENTS & OMISSIONS  
IN VIOLATION OF SECTION 10B OF "THE ACT."
- 10) THE COURT IN STEVENS v VOWELL HELD THAT  
IT IS NOT NECESSARY TO ALLEGE OR PROVE COMMON LAW  
FRAUD TO MAKE OUT A CASE UNDER THIS SECTION OR RULE  
OF THE COMMISSION PERTAINING TO USE OF A DECEPTIVE  
DEVICE IN THE SALE OF STOCK, BUT IT IS

ONLY NECESSARY TO PROVE ONE OF THE PROHIBITED ACTIONS SUCH AS: A MATERIAL MISSTATEMENT OF FACT OR THE FAILURE TO STATE A MATERIAL FACT.

④ ALSO IN THE CASE OF MAHER V J.R. WILLISTON & BEANE INC, THE COURT HELD THAT SINCE NO FEDERAL STATUE OF LIMITATIONS EXIST BASED ON SUBSECTION B [SECTION 10B "THE ACT"] PROHIBITING USE OF DECEPTIVE DEVICES IN THE SALE OF STOCK, THAT STATE STATUTES OF LIMITATIONS GOVERNING FRAUD ARE APPLICABLE,

⑤ PLAINTIFF CONTENDS THAT THE REGULATION "T" INITIAL MARGIN VIOLATION WAS A PART OF THE WHOLE FRAUD IN THIS CASE, AND THEREFORE NOT BARRED BY THE STATUTE OF LIMITATIONS FOR ACTIONS CREATED BY A STATUTE, BUT MAKING THE LENGTHIER STATUTE FOR ACTIONS BASED ON FRAUD APPLICABLE. WE CITE THE FOLLOWING CASES IN SUPPORT OF THIS PRINCIPLE:

CONWAY V NEWBURGER, LOEB & CO ET AL

HORNBLOWER & WEEKS - HEMPHILL, NOYES V. BURCHFIELD

⑥ PLAINTIFF SUBMITS THAT THE DEFENDANT HAS PROPERLY BEEN CHARGED WITH ACTS OF FRAUD, AND HIS DENIAL THEREOF, FIRST RAISES A TRIABLE ISSUE; AND SECONDLY REQUIRES A SIX YEAR STATUTE OF LIMITATIONS.

A) ALTHOUGH PLAINTIFF'S PRIMARY CHARGE IN SUMMONS & COMPLAINT IS [ARTICLE I-2] MAKING FALSE STATEMENTS IN ORDER TO SELL STOCK AND ALSO CHARGE OF ACTS OF FRAUD; AND THESE CHARGES ARE REPEATED IN PLAINTIFF'S STATEMENT PURSUANT TO RULE 9G IN ANSWER TO THE MOTION FOR SUMMARY JUDGEMENT; THE DEFENDANT HAS COMPLETELY IGNORED THESE CHARGES IN HIS MOTION FOR SUMMARY JUDGEMENT.

IS PLAINTIFF CONTEND THAT JUST BECAUSE THE DEFENDANT IGNORES THESE CHARGES; IT DOES NOT MAKE THE CHARGES NON EXISTANT OR LESS VALID. PLAINTIFF CAN NOT REFUTE OR CONTROVERT DEFENDANT'S ARGUMENT AGAINST FRAUDULANT ACTS BECAUSE DEFENDANT MADE NO ARGUMENT AGAINST FRAUD,

16 JUDGE L.F. MAC MAHON BASED HIS DECISION, ADMITTEDLY, ON CONFUSION, YET THE JUDGE HAD AMPLE OPPORTUNITY TO DETERMINE THE FACTS IN THIS CASE. JUDGE MACMAHON REFUSED PLAINTIFF'S REQUEST FOR ADDITIONAL ORAL SUBMISSION ON THIS MOTION FOR SUMMARY JUDGEMENT AT THE PRETRIAL HEARING ON SEPT. 19, 1974.

WE CITE WILLIAMS V HOWARD JOHNSON'S INC WHERE COURT IS IN DOUBT IT HAS DISCRETION TO POSTPONE CONSIDERATION OF MOTION FOR SUMMARY JUDGEMENT UNTIL AFTER A HEARING ON THE MERITS.

1) JUDGE L.F. MACMAHON IGNORED PLAINTIFF'S CHARGES OF FALSE STATEMENTS IN ORDER TO SELL STOCK & ACTS OF FRAUD AS STATED IN THE COMPLAINT & AGAIN IN THE STATEMENT PURSUANT TO RULE 96 WHEN HE GRANTED DEFENDANT'S SUMMARY JUDGEMENT MOTION. THIS IS CONTRARY TO LEGAL PRECEDENT.  
IN HOLMES V. INSURANCE CO. OF NORTH AMERICA THE COURT HELD THAT - ON DEFENDANT'S MOTION FOR SUMMARY JUDGEMENT, COURT WOULD ASSUME PLEADED FACTS IN PLAINTIFF'S COMPLAINT WERE TRUE.  
AND IN POLLER V. COLUMBIA BROADCASTING INC., ON SUMMARY JUDGEMENT, RECORD WILL BE VIEWED IN LIGHT MOST FAVORABLE TO PARTY OPPOSING THE MOTION,

## CONCLUSION

IN CONCLUSION THE PLAINTIFF MAKES THE FOLLOWING SUMMATION POINTS FOR THE COURTS CONSIDERATION:

- 1) PLAINTIFF HAS SHOWN IN THE ARGUMENT THAT:  
THE DEFENDANT WAS CHARGED WITH MULTIPLE ACTS IN VIOLATION OF THE SECURITIES & EXCHANGE ACT OF 1934 IN THE SUMMONS & COMPLAINT; AND AGAIN IN PLAINTIFF'S STATEMENT PURSUANT TO RULE 96 IN ANSWER TO THE MOTION FOR SUMMARY JUDGEMENT.  
AND THAT THESE ACTS ARE ACTS OF FRAUD.
- 2) THE DEFENDANT DENIES THESE ALLEGATIONS OF FRAUD IN HIS ANSWER TO THE COMPLAINT; BUT COMPLETELY IGNORED THESE SAME ALLEGATIONS OF FRAUD IN HIS MOTION FOR SUMMARY JUDGEMENT.
- 3) JUDGE L.F. MACMAHON FAILED TO FOLLOW LEGAL PRECEDENT BECAUSE:
  - A) HE FAILED TO ACCEPT PLAINTIFF'S PLEADINGS AS TRUE.
  - B) HE FAILED TO DETERMINE CORRECT FACTS.
  - C) HE FAILED TO VIEW RECORD IN LIGHT MOST FAVORABLE TO PARTY OPPOSING MOTION FOR SUMMARY JUDGEMENT.
- 4) PLAINTIFF SUBMITS THAT THERE IS A TRIABLE ISSUE OF FACT IN THIS CASE; THAT OF ACTS OF FRAUD IN VIOLATION OF THE SECURITIES & EXCHANGE ACT OF 1934.

5) AND THAT.

THE APPLICABLE STATUTE OF LIMITATIONS IN THIS CASE IS SECTION 213(9) OF CPLR OF NEW YORK STATE WHICH ALLOWS SIX YEARS TO COMMENCE AN ACTION BASED ON FRAUD.

Q THEREFORE:

PLAINTIFF DEMANDS THAT COURT OF APPEALS REVERSE JUDGE L.F. MAC MAHON'S MEMORANDUM DECISION OF NOV 8, 1974, AND DISMISS DEFENDANT'S MOTION FOR SUMMARY JUDGEMENT.

7) AND ORDER A PROMPT JURY TRIAL FOR THIS CASE.

This is for your guidance ONLY  
NOT TO BE USED AS A QUESTIONNAIRE.

DO NOT SUBMIT THIS SHEET AS YOUR DOCUMENT

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

X

YOUR FULL NAME :

Plaintiff(s) :

- v. - :

NAME OF PERSON OR OTHER DEFENDANT (Agency,  
etc.) against whom you make your complaint, :

Defendant(s) :

X

FIRST STATEMENT: (1) State why you are suing.

(2) State how you arrived at the figure claimed, or why you do  
not presently have the remedy for which you are now suing.

SECOND STATEMENT: State why this Court has jurisdiction.

THIRD STATEMENT: State your full name and address.

FOURTH STATEMENT: State Defendant(s) full name(s) and  
address(es) and title.

FIFTH STATEMENT: State what remedy you seek from each  
defendant, and be specific as to claim against each, or any other  
action required of each defendant.

Sworn to before me this

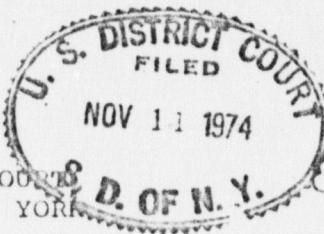
\_\_\_\_ day of \_\_\_\_\_, 197 . (Your Name)

(Notary Public -  
Signature & Seal.)

NOTE: Furnish a copy of your complaint for each defendant named  
in your action. When suing the U. S. Government, or an  
agency thereof, furnish 3 extra copies of your complaint --  
one for the U. S. Attorney for the Southern District of  
New York, 1 for the Attorney General of the United States.

1

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



ROBERT C. MERCKENS, :  
Plaintiff, : Pro Se  
: 74 Civ. 1585-LFM

-against- : MEMORANDUM

F. I. duPONT, GLORE FORGAN & CO., :  
Defendant. : #41426

MacMAHON, District Judge.

Asserting the applicable statute of limitations and lack of personal jurisdiction over the defendant, defendant moves for summary judgment, pursuant to Rule 56, Fed.R.Civ.P.

It appears from the affidavits and exhibits submitted that there is no genuine issue of fact respecting defendant's claim that this action is barred by the statute of limitations. Accordingly, the case is ripe for summary judgment.

The factual allegations of this cryptic complaint are, at best, vague and confusing, as is so

often the case in pro se actions. As best we can determine, plaintiff seeks damages for a violation of Regulation T, 12 C.F.R. § 220.4(c), promulgated pursuant to § 7(c) of the Securities Exchange Act of 1934,<sup>1</sup> 15 U.S.C. § 78(g). Since neither Regulation T, nor § 7(c) of the Act, contains a limitation provision, we must look to the law of the forum state for the appropriate statute of limitations.<sup>2</sup>

The New York statute of limitations applicable to an action under Regulation T and § 7(c) is CPLR § 214(2), which provides a three-year limitation period for an action to recover upon a liability created or imposed by statute.<sup>3</sup>

Plaintiff's alleged claim under Regulation T accrued in November 1970, when defendant failed to notify him that his margin account had fallen below maintenance requirements and failed to liquidate his account. This action was not commenced until April 1974, more than three years after it accrued. Consequently, it is untimely and barred by the statute of limitations. We find it unnecessary, therefore, to decide whether there is personal jurisdiction over the defendant.

Accordingly, defendant's motion for summary judgment dismissing this action is granted. The Clerk of the Court is directed to enter judgment in accordance with this memorandum.

So ordered.

Dated: New York, N. Y.

November 8, 1974

  
\_\_\_\_\_  
LLOYD F. MACMAHON  
United States District Judge

Merckens v. E. I. duPont,  
Gilore Forgan & Co.

Pro Se 74 Civ. 1585-LFM

FOOTNOTES

1

We note that a violation of Regulation T may, under certain circumstances, give rise to a fraud action, Hornblower & Weeks-Hemphill, Noyes v. Burchfield, 366 F. Supp. 1364 (S.D.N.Y. 1973), but, even construing this pro se complaint liberally, as we must, Haines v. Kerner, 404 U.S. 519 (1972), its factual allegations completely fail to substantiate a fraud claim.

2

Cope v. Anderson, 331 U.S. 461 (1947); Klein v. Bower, 421 F.2d 338, 342-343 (2d Cir. 1970); Hornblower & Weeks-Hemphill, Noyes v. Burchfield, supra.

3

Hornblower & Weeks-Hemphill, Noyes v. Burchfield, supra, 366 F. Supp. at 1367. See also Gammage v. Roberts, Scott & Co., Civil Action No. 71-480-T (S.D. Cal. June 13, 1974).

NOTICE OF ENTRY

Sir:- Please take notice that the within is a (certified) true copy of a  
duly entered in the office of the clerk of the within  
named court on 19

Dated,

Yours, etc.,

Attorney for

Office and Post Office Address

To

Attorney(s) for

NOTICE OF SETTLEMENT

Sir:- Please take notice that an order

of which the within is a true copy will be presented  
for settlement to the Hon.

one of the judges of the within named Court, at

on the day of 19  
at M.  
Dated,

Yours, etc.,

Attorney for

Office and Post Office Address

To

Attorney(s) for

Index No. 74-2663

Year 1974

UNITED STATES COURT OF APPEALS  
SECOND CIRCUIT

ROBERT C. MERCKENS APPELLANT

V  
F.I. DUPONT, GLORE FORGAN & CO  
A/K/A DUPONT, WALSTON INC.

APPELLEE  
DEFENDANT

BRIEF

ROBERT C. MERCKENS PRO SE

Attorney for

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5074400

To WEIL, GOTSHAL & MANGES

767 FIFTH AVE.

N.Y. 10022  
Attorney(s) for FIDUPONT GLORE FORGAN CO.  
DEFENDANT

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for

AVT.  
TIFF

copy received  
1/21/75  
will Sutherland - Manges  
attorneys for Defendant